

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No.79828

Sedberry McNair Jr.

1323 Maple Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on August 11, 2010 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 13-7-310 (a), failure to remove very large quantity of junk, trash and debris from residential property known as 1323 Maple Avenue, 21227.

On July 20, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Ryan Fisher issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$2,000.00 (two thousand dollars).

The following persons appeared for the Hearing and testified: Sedberry McNair, Respondent and, Ryan Fisher, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on June 21, 2010 for removal of untagged/inoperative motor vehicles, remove open dump/junk yard, remove trash and debris, cease stagnant pool water, remove branches, yard debris, wood, junk, furniture, metal. This Citation was issued on July 20, 2010.

B. Inspector Ryan Fisher testified that his initial inspections found significant quantities of junk, trash and debris, including tree branches and other yard waste, and an untagged vehicle. Re-inspection prior to this Hearing found a lot of progress has been made in cleaning up the property but some violations remain. Photographs in the file show piles of yard waste, building materials, pipes, and numerous piles covered with tarpaulins and old tires. This violates prohibitions against the accumulation of junk, trash and debris on private property. BCC Section 13-4-201. This also constitutes an open dump, which under the County's Zoning Regulations is not a permitted use on this property. BCZR Section 101.1 (Open Dump: "Any land ... on which there is deposit and accumulation, either temporary or permanent, of any kind of organic or inorganic refuse...").

C. Building materials can be stored temporarily but only for use on-site, and only if they are properly stacked and raised above the ground. County law prohibits the accumulation of bricks or other materials that is conducive to rat harborage, and requires such materials to be evenly piled or stacked on open racks that are elevated at least 18 inches above the ground. BCC Section 13-7-312. Under Baltimore County Zoning Regulations, a contractor's equipment storage yard is the use of any space, inside or outside a building, for the storage or keeping of contractor's equipment or machinery, including building materials storage. BCZR Section 101.1. The zoning regulations do not permit use of residential property for a contractor's equipment storage yard. BCZR Section 102.1 ("No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations...."); BCZR Section 1B01.1, General use regulations in D.R. Zones; see BCZR Article 2, Schedule of Special Exceptions, 2 Attachment 1:1 (chart showing this use prohibited in all residential zones; use permitted by special exception in B.R. zone, and permitted in M.L. and M.H. zones).

D. Respondent Sedberry McNair testified that he has been under a lot of stress and did not keep up the property. He testified that he has cleaned up a lot of the yard and will have the rest cleaned up soon. He requested additional time to complete the work. Because compliance is the goal of code enforcement, and because Respondent has made significant progress in correcting the code violations, the civil penalty will be rescinded if the remaining violations are corrected within the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$500.00 (five hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if the violations are corrected by September 30, 2010.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 16th day of August 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.